

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2198

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval Senate Bill No. 2198 entitled "A Bill for an Act Relating to Land Conservation."

The purpose of this bill is to encourage the protection and preservation of land suitable for conservation by establishing a tax credit of \$1 million for the sale, donation, or management of land for conservation purposes.

While the intent to preserve conservation lands is commendable, the bill poses both operational and fiscal problems.

The bill places a cap of \$1 million on the amount of credit any one taxpayer can receive. The bill also places a \$1 million aggregate tax credit on the total amount that may be paid to all qualified taxpayers during the five years that the program is in effect. The amount is both outside the budget and unrealistic.

First, any single donation of \$2 million would qualify to use the entire amount of the credits available for the entire program through the year 2013. More troubling is the fact that the bill does not indicate how competing and equally qualified submissions for the credit should be awarded, opening the program to potential litigation or challenge.

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Second, unlike conservation tax credits enacted in other states, this bill permits the credit to be taken for voluntary investments in the management of land, an activity that is fraught with interpretation and possible abuse. Further, this bill does not prohibit a taxpayer from claiming both a credit and a State deduction, thus double-dipping into the State tax coffers. Additionally, the bill incorrectly references pass-through entities, in violation of well-settled tax principles for the treatment of partnerships, limited liability corporations, and corporations.

It should be noted that State and federal programs, including the legacy lands program, currently exist to encourage landowners to engage in good stewardship, consider charitable donations of their property, or allow for the State to purchase and preserve conservation properties. These programs will continue to have my support and do not result in the types of fiscal or operational problems this measure poses.

For the foregoing reasons, I am returning Senate Bill No. 2198 without my approval.

Respectfully,


LINDA LINGLE
Governor of Hawaii